

**Transcript for FDA's Media Briefing on Front-of-Pack Labeling**  
**Media Call Transcript**  
**FDA Position on Front-of-Package Labeling**  
**Moderator: Meghan Scott**  
**October 20, 2009**

Meghan Scott: Hello everyone. Thank you for joining us today. My name is Meghan Scott. I'm with the FDA's Media Relations Office. I appreciate your joining us for this briefing today on FDA's letter to industry concerning front-of-pack labeling.

Our speaker this afternoon is going to be Dr. Margaret Hamburg, Commissioner of Food and Drug. She's joined in this call by Mike Taylor, Senior Advisor to the Commissioner; Barbara Schneeman, Director of the Office of Nutrition, Labeling and Dietary Supplements and our Center for Food; and Jerry Mande, Deputy Under Secretary for Food Safety at the U.S. Department of Agriculture.

Following Dr. Hamburg's remarks we're going to have a question and answer session and at this time I'd like to turn it over to Dr. Hamburg.

Margaret Hamburg: Well thank you very much and welcome. I'm Margaret Hamburg, Commissioner of the Food and Drug Administration and I'm very happy that I'm joined by colleagues here at the FDA, Mike Taylor and Barbara Schneeman and also Jerry Mande from the U.S. Department of Agriculture and they'll be available for discussion and questions later.

I've requested this time to tell you about some nutrition-related efforts we're launching to help the administration's efforts to reduce obesity and other diet-related chronic diseases in the United States.

As you all know one key to the health of our citizens is good nutrition. Unfortunately two out of every three adults in this country are now overweight or obese and the impact of that on health and on healthcare costs is enormous.

We know that people want information that will help them quickly and easily make healthy food choices for themselves and for their families. We saw this 15 years ago when the FDA developed the nutrition facts label on food packages and that that information has served us all very well.

Studies show that consumers trust and believe the nutrition facts information and that many consumers use it to help them build a healthy diet. In addition the presence of the nutrition facts label on most food packages today has prompted manufacturers to reformulate many of their products to make them in fact more nutritious.

As successful as that effort has been I believe we need to do more now in this area for several reasons. First, obesity and diet-related chronic disease is on the rise and we must do more to help consumers reduce their risk of chronic disease.

Second, some consumers don't understand the nutrition facts label very well and busy shoppers hurrying down the grocery aisles often with their kids in tow can't always turn the box over to check out the food label. They want their information fast and in front of them.

Third, because people are interested in choosing nutritious foods, food manufacturers have begun using front of packages to show how nutritious their products are. Some nutritionists have questioned whether this

information is more marketing-oriented than health-oriented and judging from some of the labels that we've seen, we think that this is a valid concern.

I'm sure you've all seen these front-of-pack labels. They're the growing proliferation of forms and symbols, checkmarks, numerical ratings, stars, heart icons and the like. There's truly a cacophony of approaches not unlike the Tower of Babel that HHS secretary Lou Sullivan decried back in 1990 which led to FDA being given the authority to develop and implement the nutrition facts label.

I think this is another critical time to assess the state of play and I think we can do better for consumers. The latest and perhaps largest front-of-package program, the Smart Choices Program has generated a fair amount of interest recently with some public health experts arguing that its criteria are too lenient, thereby allowing products with relatively large amounts of sugar or fat to receive that symbol.

Congress gave FDA the authority and responsibility to ensure that food labels have proper nutrition labeling and I believe the proliferation of these symbols and icons and the various criteria they use necessitate our exercising that responsibility to look carefully at how the fronts of food packages are being used to impart such information.

Today I've written a letter to the industry and a companion letter to Representative Rosa DeLauro of Connecticut who's expressed concern about these so-called front-of-package labels.

In these letters I've sought to communicate the changes needed in the way that nutrition information is being provided on the front of packages to consumers

and that FDA intends to play a lead role in this area. Specifically I described the following steps that I've authorized FDA to take.

First, FDA is examining existing front-of-package labels for violations of our labeling rules. That is, for labels that are false or that mislead consumers. And if you know of any product in the marketplace in your area that you think should be brought to our attention, please feel free to do so.

Second, the agency is drafting a new regulation that will provide a single set of science and nutrition-based criteria that should be used when front-of-package labels are used. This is vital to ensure that consumers are not enticed by claims, labels or symbols to believe that a food is healthier than it really is.

Third, FDA is launching a consumer research program to determine how consumers view these various labeling strategies and symbols and whether certain approaches, symbols or types of symbols are better ways to impart useful nutrition information to our citizens.

Fourth, we'll be reaching out to manufacturers, retailers and others to determine if a single front-of-package symbol can give our citizens a quick but accurate way to select healthy foods in the grocery store. The retailers have played a major role in the United Kingdom's front-of-package program and we have every reason to believe that retailers and manufactures in this country will be interested in doing the same here.

This initiative is important for a number of reasons. We know consumers want reliable accurate information to help them build healthy diets. And we know that consumers like the concept of a front-of-package information system for selecting foods that are healthy choices.

As a busy mother myself who frequently finds myself racing down the grocery aisle hoping to grab foods that are at least somewhat healthy for my family, I'd welcome the day that I could look on the front of packages and see nutrition information I can trust and readily use.

As the Commissioner of the FDA, I see it as my responsibility and the responsibility of this administration to help make that happen. If better information on food labels can help even modest percentages of consumers build better diets, our efforts will be well worth it.

I and my colleagues will now be very happy to take questions and we do thank you for joining this call and taking the time to hear about this important issue.

Meghan Scott: Thank you Dr. Hamburg. At this time we're going to open it up for questions. As always just a reminder please limit yourselves to one question and one follow-up. Also please address all questions to Dr. Hamburg and state your name and affiliation when you introduce yourself. Thank you.

Coordinator: And again if you would like to ask a question, please press star 1. One moment. Okay and our first question comes from Elizabeth Weise with USA Today.

Elizabeth Weise: Hi. Thanks for taking my call. I have two questions. First off can you give some examples of symbols or something that you think might be misleading or might make people think they're buying something that they're not?

And secondly I can already imagine that the food manufacturers are going to say, "Well all people have to do is turn it around and look on the back." These

are almost a part of advertising. How would you -- that's expensive real estate, how are you going to do that?

Margaret Hamburg: Well there are a range of examples out there and I don't know that I want to name names but there are products that have gotten the Smart Choice checkmark that are almost 50% sugar.

There are products that on the front of package have symbols indicating that they provide a high percentage of daily vegetable requirements and other nutrients but neglect to mention that they also are representing 80% of your daily fat allowance.

There are examples of foods like that, foods that make a big point of advertising 0% trans fats on the front but they don't indicate that they are very high percentages of saturated fats as you'll find out if you look at the nutrition label on the back.

It is as you say a pretty busy landscape in terms of what is on the front of the package and the range of claims, symbols and just general advertising messages. But that's part of why I think it is important that we think about and try to move towards a simple easily understood and read system of communicating key information for nutrition and health.

Meghan Scott: Great. Thank you. Next question please.

Coordinator: Our next question comes from Lisa Stark with ABC News.

Lisa Stark: Hi. Thank you so much for taking my question. A little - some things on timing if I can. You said that you're going to be examining the existing packages for violations. So if you find those, would you take some action

even if you haven't gotten to the point where you're looking at perhaps drafting a single set of criteria?

And secondly, on that single set of criteria, are we looking at years away? I mean I could see this being a very long and contentious issue.

Margaret Hamburg: Well we feel it's very important to let our partners in industry know that we are looking very seriously at this issue and the appropriateness and accuracy of front-of-package labeling and that's why we are sending out this letter today. We want to work with industry but over time we will take enforcement action for egregious examples where there is inaccurate labeling and misbranding.

We also feel that it's very important to move constructively towards a more unified system that reflects the best possible science and knowledge about what consumers need and can use and that's why we're undertaking consumer research activities to better understand how people glean information from various front-of-package labeling and try to identify what are the best approaches.

We're working with others internationally that have experience with implementing front-of-package labeling approaches. The Institute of Medicine is also undertaking a significant study to look at front-of-package labeling and of course we hope to be able to benefit from their work and the experts that they assemble as part of their study committee.

And we'll be working with industry both manufacturers and retailers moving towards this goal of a common science- and nutrition-based front-of-package labeling standard.

Lisa Stark: But you don't -- do you have any idea when that might come about if you had your -- you know, is there any timeframe on that?

Margaret Hamburg: Well, you know, I'm always a little hesitant to commit to timeframes but we want to do this quickly because of this plethora of different front-of-package labeling strategies that are being developed and the confusion that I think it is causing.

So we are looking at a timeline that will be pushing towards, you know, maybe within the next few months we'll I think have embarked on our research and collected a lot of important information and then start really sitting down with manufacturers and industry as well as partners in the academic community and in government to start shaping this new standardized approach.

I would also like to say putting forward regulations to further define nutritional criteria because we do believe that there are key elements that need to be part of a front-of-package approach and that we need to update existing information and standards and really provide again the most up-to-date scientifically-based criteria.

Meghan Scott: Great. Thanks for you question Lisa. Next question please.

Coordinator: Yes, our next question comes from Matt Perrone with the Associated Press.

Matt Perrone: Hi. Thanks guys. We haven't seen this letter yet. When - where can we get a copy? Who was it addressed to specifically? And just - I'm not sure where this thing is.



Meghan Scott: Yeah, Matt the letter is actually posted right now under nutrition and labeling on FDA's site. You'll find it under recent announcements.

Matt Perrone: Okay. And can you tell me a little bit more about the Institute of Medicine study? Is that already underway and what are they trying to accomplish exactly?

Margaret Hamburg: The Institute of Medicine was asked by Congress to put together a committee to look at the question of front-of-package labeling. They are currently putting together their committee of experts and I believe that the study will be an 18-month study with a full report and recommendations coming out at that time.

There will be a process of committee meetings and open public meetings seeking comment and input. We will be obviously following those meetings with great interest.

You know, truth be told we would love it if they could accelerate the timeframe for this work to better inform our efforts but we'll be moving forward in a parallel effort, learning from their work to the greatest degree possible and drawing as I said on other studies that have been out there, other real world experience from the U.K. and other countries and also undertaking our own consumer research efforts over the next few months.

Matt Perrone: I see.

Meghan Scott: Great.

Matt Perrone: Okay. Thanks.

Meghan Scott: Thank you. Next question please.

Coordinator: Yes, our next question comes from William Neuman with the New York Times.

William Neuman: Hello. Hi. I had two questions really. One, I want you to try and characterize for me what you're doing today in terms of is this essentially putting the industry on notice that the FDA is taking a more aggressive stance towards the labeling that's out there and what you plan to do on it?

And also I want you to talk a little bit more in detail about this idea of drafting a new regulation. Does that mean that you have decided that ultimately what's going to happen is that the federal government is going to mandate what front-of-package nutrition labeling looks like and contains?

Margaret Hamburg: Well in answer to the first part of your question, yes we are very serious about moving forward to strengthen nutrition activities here at FDA and feel that the front-of-package labeling issue represents a real opportunity to serve consumers and their interests in being able to make better choices to support healthy diets.

And it is clear that at the present time this vast array of different approaches is adding confusion rather than clarity to that important effort. So we do want to step forward and provide leadership. We also believe that we can offer important benefits in terms of developing the science- and nutrition-based criteria for the use of dietary guidance claims including these front-of-package symbols and labels and will have the effect of providing standardized criteria for all food manufacturers.

As we move forward as I've already stressed it is important for us to gain further information about how consumers use front-of-package information and the best strategies to present important nutritional information. But as we develop that knowledge base we want to work closely with manufacturers and retailers towards the goal of a common gold standard for presentation of key nutritional information.

And I think that the experience in the United Kingdom demonstrates that a voluntary approach can work very effectively but of course the FDA would have the authority to move towards a mandated approach should that prove necessary.

William Neuman: If I could just follow up on that question about timing. You said you want to move quickly, does that mean that people might expect to see by the end of next year a new sort of label, you know, crafted by, you know, with this input from the FDA, that soon?

Margaret Hamburg: End of next year meaning end of 2010?

William Neuman: 2010, yeah.

Margaret Hamburg: Yes, I think we will see significant progress towards our goal. You know, as I indicated and maybe I should mention again, we are going to begin, you know, very quickly to work with manufacturers and retailers towards a voluntary approach that would reflect the science- and nutrition-based criteria that we're going to be putting forward over the next few months.

Meghan Scott: Great. Thank you William. Next question.

Coordinator: Our next question comes from Doug Ohlemeier with the Packer Newspaper.

Doug Ohlemeier: Thank you. What kind of -- how do you think fresh fruits and vegetables, packs of fresh produce are doing in this area, front-of-package labeling?

((Crosstalk))

Doug Ohlemeier: ...bananas and tomatoes and things like that. How does the FDA see those kind of labels on those products?

Margaret Hamburg: Well it is as I think you note in your question, although I can't see if you're smiling, it's a little harder to put a front-of-package label on a peach or a pear or a banana or a head of lettuce.

But we do in fact provide information on nutritional content of fruits and other fresh produce and some supermarkets post that kind of information. And I expect that because of consumer interest and desire for such information, we'll see that trend continue to expand.

Doug Ohlemeier: I'm talking about the packs themselves like a package - a pack of oranges or a package of avocados or a bag of potatoes. Are they -- you know -- do the packers use that kind of helpful information?

((Crosstalk))

Margaret Hamburg: You know, I think that for what we're really talking about today, the front-of-package labeling, we're really talking about manufactured foods. Dr. Schneeman is going to add some further clarification on your question.

Barbara Schneeman: Just as further clarification, for raw fruits and vegetables and fish there is a voluntary labeling program. And FDA does in fact provide downloadable

posters that can be used point of purchase for the 20 most commonly consumed fruits and vegetables as well as the 20 most commonly consumed varieties of fish.

So there are opportunities to provide nutrition information. As Dr. Hamburg indicated for front-of-pack labeling that's most often going to be on packaged food.

Doug Ohlmeier: Okay, thanks.

Meghan Scott: Okay thanks, for your question. You okay Doug?

Doug Ohlmeier: Good, thank you.

Meghan Scott: Good. Next question please.

Coordinator: Okay. Our next question is from Lyndsey Layton with the Washington Post.

Lyndsey Layton: Hi. Thanks very much. Dr. Hamburg, when - I'm a little confused when you're talking about the enforcement part of this that you're going to be -- you know, if you find that manufacturers are making false claims that, you know, you're going to put them on notice.

And you referred to an unnamed item I think it's a sugary, multi-colored cereal product that has the Smart Choices label on the front of it. But here's -- I just don't understand exactly what the Fruit Loop-maker is violating, what law or regulation they are violating by putting that voluntary Smart Choices label on their product. Help me understand what exactly is wrong with that in terms of the regulatory stance. What rule are they violating?

Margaret Hamburg: Well let me turn to the lawyer in the room, Mike Taylor, who's also the Senior Advisor on Food here at FDA and I'll let him give you the appropriate legal answer.

Lyndsey Layton: Okay, thanks.

Mike Taylor: Yeah, Lyndsey, without commenting on any particular product, under our law foods are deemed as branded if they contain false or misleading information. So for example if there was symbol that conveyed an overall healthy impression about a food but the food contained a level of a nutrient or was otherwise composed in a way that really wasn't consistent with that healthy message, that could be deemed misleading.

In an enforcement case we would have the burden to prove that consumers are potentially misled by that. A central element of our authority explicit in the statute is that labels can also be deemed misleading if they don't disclose information that's material, you know, has an impact on consumers and the way the food is actually used.

So for example if a food contains information on the front that suggests that it's a healthy product but omits critical information such as an extremely high saturated fat level, that's potentially misleading under this specific provision, it makes it misleading to not disclose information that's material to consumers.

So there are a couple different legal theories and it's a question as always in these cases of looking at particular examples and developing the evidence that would prove that those statutory provisions have been violated. There also are some specific and pretty detailed regulations that FDA promulgated in 1993

under the Nutrition Label and Education Act that define various terms and require certain disclosures.

And so again we'll be looking to see whether companies making these claims are actually complying with those actual FDA regulations on the books in addition to the broader statutory standards for the misbranding of products.

Margaret Hamburg: And Lyndsey let me make one additional point though which is that while we may take enforcement action against manufacturers whose labels are either false or misleading, our primary aim is to work with the food industry to help develop appropriate criteria for front-of-package labeling that will truly serve American consumers.

Lyndsey Layton: Okay. Thank you.

Meghan Scott: Thanks Lyndsey. Next question.

Coordinator: Our next question comes from Patricia Neighmond with National Public Radio.

Patricia Neighmond: Hi Dr. Hamburg. Nice to...

Margaret Hamburg: Hi Patricia.

Patricia Neighmond: ...get to ask you a question. You've mentioned a couple of times the U.K. and I'm wondering -- I just have a few questions but one is if you might briefly describe how that system works. I really am unfamiliar with it other than you said it was a voluntary system.

And the other thing I wonder is if you could describe what you envision might be new information. You mentioned there might be new information on these front-of-package labels...

Margaret Hamburg: Okay.

Patricia Neighmond: ...and what the information might be.

Margaret Hamburg: The U.K. system is the one that probably is the most talked about and where there's the deepest experience with front-of-package labeling. It is a voluntary system as I said it's a traffic light system that provides the actual nutrient levels in a couple of key areas, sodium, saturated fat, sugar and total calories.

And they have criteria for percentage of the daily allowance that is also indicated on most of the packages. And then it's given a high, medium or low, red, yellow, green, for how the product rates in each of those nutritional domains. And so it provides, you know, a very easy visual to sort of assess if the product is sort of moderate on the different nutrients identified or if it's very high or green, low.

And you know, what has been found is that consumers really like this approach. They find that it's easy to understand. It's not overly cumbersome in terms of the amount of information but it provides the information that they want to know in a visual and understandable way and it enables them to make informed choices.

It doesn't mean that consumers only buy the products that are green. They sometimes, you know, knowingly buy the red but perhaps end up with a better balance overall.



Patricia Neighmond: And then I guess the follow-up is what might you envision adding to the front of label that may not be included right now in the back? Is there any new information you would add or you would consider adding?

Margaret Hamburg: Well we -- you know, we want to undertake the research and consumer surveys that I mentioned to really define but our thinking is that because the nutrition fact label that's on the back of packages is now, you know, well-recognized, it's trusted and it provides important information that we would be advocating really building on that approach, maybe even using, you know, the same kind of - recommending the same kind of font and appearance but most likely following up on the example that I just mentioned from the U.K. in terms of the key nutritional elements including calorie count, sodium, added sugar and fat.

Meghan Scott: Great. Thank you Patricia.

Patricia Neighmond: Thank you.

Meghan Scott: The next question is going to be our last question.

Coordinator: Okay, that comes from Katherine Hobson with the U.S. News and World Reports.

Katherine Hobson: Hi. Thanks for taking my question. Just a follow-up on the traffic light program. First of all have you had any feedback on this from manufacturers, especially U.S. manufacturers that may already be participating in this program in England or in the U.K.?

And also a feature of that program that's probably the more controversial one for food manufacturers is that there is that red even though you say that people still buy it, it's hard I think for food manufacturers to imagine putting a red light on any of their packages. How essential do you think it is on the front of labels to kind of include the negative as well as accentuating the positive?

Margaret Hamburg: I think it's very important that consumers get complete information so that they can make informed choices. And the experience in the U.K. does indicate that it obviously sensitizes manufacturers in a new way to the composition of the foods that they're putting into the marketplace and that consumers do notice.

But it has I think proven to be a system that manufacturers, retailers and consumers are overall quite comfortable with and see benefits from. And we've begun having some discussions informally with respect to the direction that we're moving in here and, you know, so far there's been I think a considerable amount of interest and support for moving forward.

Katherine Hobson: With -- I'm sorry -- with specifically with that type of program or just in general?

Margaret Hamburg: I think, you know, that we haven't begun to really specifically define what front-of-package labeling should look like but we're obviously drawing from the experience of the traffic light system and other similar approaches as we've begun to discuss these issues with partners in industry, both manufactures and retailers. And we will be really examining these questions in much more depth as we begin our consumer research.

Katherine Hobson: Thanks.

Meghan Scott: Thank you Katherine. Thank you all for joining us on today's call. A replay of this call is going to be available in about an hour and will be up for approximately three days. If anybody has any follow-up questions, please don't hesitate to reach out to our office. Thank you all and have a great day.

Coordinator: Thank you for participating in today's conference call. You may disconnect at this time.

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